IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 277 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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FIROZALI RAMJANALI FATWANI

Versus

NAJMABEN MOHMADALI VIRANI

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Appearance:

MR MANISH RAVAL for Petitioner

MR HR PRAJAPATI for respondent no.1 and

MR ST MEHTA, APP for respondent no.3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 25/09/2000

ORAL JUDGEMENT

1. This revision application under Sec.397 read with Sec.401 Cr.P.C. arises of the claim for enhancement of maintenance made by the original applicant, the respondent no.1 herein (hereinafter referred to as the

applicant). The applicant is the divorced wife of the petitioner and the opponent no.2 is their son. In Misc. Criminal Application No.87 of 1985 preferred by the opponents u/s.125 Cr.P.C. by an order dated 18th February, 1990 the monthly maintenance of Rs.150/- and Rs.75/- was awarded to the opponents respectively. In view of the rising cost of living the applicant preferred Misc. Criminal Aplication No.185 of 1994 before the Judicial Magistrat First Class, Talaja and claimed enhancement of monthly maintenance awarded to the applicant and the minor son. The learned Magistrate by his judgment and order dated 9th October, 1995 ordered enhancement of maintenance to the applicant wife to Rs.300/- per month but refused enhancement of maintenance to the minor son. Feeling aggrieved the applicant preferred Criminal Revision Application No.188 of 1995 before the Sessions Court, Bhavnagar. The learned Additional Sessions Judge, Bhavnagar by his judgment and order dated 11th June, 1996 allowed the said revision application and ordered enhancement of Rs.75/in maintenance awarded to the minor son i.e. the minor son was awarded a monthly maintenance of Rs.150/- from the date of the application. Feeling aggrieved, the opponent father has preferred the present revision application.

2. It is contended that at the relevant time there was no rise in the cost of living and particularly the son being minor, there was no need for enhancement of maintenance. The contention is required to be rejected outright. The applicant did not require to prove that the cost of living increases every day and every month. The argument that the minor son does not require enhanced maintenance does not lie in the mouth of a father. I am informed that the minor son prosecutes formal education. The son would require considerable money for his school fees, books, stationery, uniform, etc. In fact, the son's education should be the prime concern of the father. Any father in such circumstance would be expected to volunteer more maintenance to the minor son instead of opposing such claim.

3. Revision application is dismissed. Rule is discharged.

(Ms. R. M.Doshit,J.)

(vijay)